IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO: 23905 of 2004

Between:

1) Ch.Prem Rani, W/o Yadagiri,
H.No.17-2-862, Madannapet, Hyderabad.
2) Kambala Pally Laxman Rao, S/o K.Balaiah,
R/o 17-2-862, Madannapet, Hyderabad.

.... PETITIONERS

AND

1 Station House Officer, Uppal Police Station,
Ranga Reddy District.
2 The Supdt. of Gandhi General Hospital, Hyderabad.
3 S.Bikshapathi, s/o late Sayanna,
R/o 3-2-57, Old Ramanthapur, Uppal Mandal,
Ranga Reddy District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus directing the respondents to take steps and to handover the dead body of Kambalapally Laxmamma, w/o late Chandraiah, r/o Madannapet, Hyderabad forthwith and to pass such further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.PURUSHOTHAM REDDY

Counsel for the Respondent No.1: GP FOR HOME

Counsel for the Respondent No.3: Mr.POTTIGANI SRIDHAR REDDY

The Court at the admission stage made the following:

ORDER:

This writ petition is filed seeking a direction to the respondents 1 and 2 to handover the dead body of late Kambalapally Laxmamma, W/o late Chandraiah. The first petitioner claims to be the foster daughter of the deceased. The second petitioner is the brother of the husband of the deceased. According to them, the deceased died at Ramanthapur village under suspicious circumstances, and after conducting the post mortem, the dead body is now at the Mortuary of Gandhi Hospital. They claim their rights for the custody of the dead body and to perform the necessary obsequies.

2. Learned counsel for the petitioners advanced several contentions touching on the *inter se* disputes between the petitioners, on the one hand, and the third respondent, on the other, in relation to certain properties left by the deceased.

3. Learned counsel for the third respondent, on the other hand, submits that petitioners litigated with the deceased for certain immovable properties, and filed O.S.No.231 of 2000, on the file of II Additinal Chief Judge, City Civil Court, Hyderabad. He also submits that the deceased executed a will on 05.3.2004, bequeathing her properties, in favour of the third respondent. It is also alleged that she expressed her desire that the obsequies be performed by her brother, the third respondent.

4. The disputes between the parties, in relation to the properties of the deceased, are the subject matter of the suit and they cannot be resolved in this writ petition. The only question that falls for consideration is as to whether the petitioners or the third respondent are entitled to the custody of the dead body and to perform the obsequies for it. *Prima facie*, this Court finds that the petitioners have been litigating with the deceased during her life time, and the third respondent is none other than her brother. She also executed a will in favour of the third respondent.

5. Under these circumstances, this Court is of the view that the third respondent is entitled to be handed over the dead body. It is already four days that the death took place.

6. Hence the writ petition is disposed of directing respondents 1 and 2, to handover the dead body to the third respondent, forthwith. Learned Government Pleader undertakes to inform the result of this writ petition telephonically to the concerned police station as well as the hospital. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 22.12.2004

RAR/TS

To

1. The Station House Officer, Uppal Police Station, Rangareddy District.
2. The Supdt. of Gandhi General Hospital, Hyderabad.
3. 2 CCs to G.P for Home, High Court Buildings, Hyd.(OUT)
4. 2 CD copies.